

REMARKS

Claims 72 to 97 are pending. New claims 98 to 116 are submitted herewith. Claims 92 to 94 have been canceled herein without prejudice. Applicants maintain the right to prosecute canceled claims 92 to 94 in any related application claiming the benefit of priority of the subject application. Accordingly, upon entry of this Response, claims 72 to 91 and 95 to 116 are pending.

In response to the restriction requirement, Applicants elect with traverse Group I, claims 72 to 88, for prosecution in the invention. Applicants respectfully request rejoinder of claims 95 to 97 with the elected invention. In this regard, claims 95 to 97, have been amended to depend from claim 72, and therefore require that the nucleic acid encode a heavy or light chain variable region sequence of the antibody of claim 72. Thus, a search of the Group I claims will necessarily overlap with a search of claims 95 to 97, and therefore, there is no undue burden on the patent office to examine claims 95 to 97 with the elected Group I claims.

New claims 98 to 116 submitted herewith are within the Group I elected invention. Accordingly, upon entry of the Response, and rejoinder, claims 72 to 88 and 95 to 116 are under consideration.

Regarding the Claim Amendments

The amendments to the claims are supported throughout the originally filed specification or were made to correct an informality. In particular, the amendment to recite “antibody or functional fragment thereof,” is supported, for example, by originally filed claims 7 to 9, and at page 5, lines 23-25. The amendment to claim 72 to recite the particular neoplastic cells is supported, for example, by originally filed claims 1 and 2. The amendment to claims 72, 73 and 78 to 83 to recite that the light and/or heavy chain variable region sequence has a specified percent identity to SEQ ID NO:1 and/or SEQ ID NO:3 is supported, for example, by originally filed claims 1 and 2, and at page 19, lines 9-15, which discloses that a polypeptide that is substantially identical can have a sequence with at least 75%, 80%, 85%, etc. identity to a reference amino acid sequence (e.g., SEQ ID NO:1 or 3). The amendments to claims 79, 84 and 85 and to delete the term “nucleic acid,” and to delete reference to nucleotide positions and SEQ ID NO:2 and 4 were made so these claims correctly reference amino acid sequences. The amendment to claims 84 and 85 to reference CDR1, CDR2, and CDR3 of SEQ ID NO:1 or 3 is supported, for example, at page 5, lines 8-

21. Thus, as the claim amendments are supported throughout the originally filed specification or were made to correct an informality no new matter has been added and entry thereof is respectfully requested.

Regarding the New Claims

New claims 98 to 116 are supported throughout the specification. In particular, claims 98 to 106, which depend from either of claims 72 or 73 are supported, for example, by originally filed claims 7 to 12, and at page 5, lines 23-25. Claims 107 and 108 are supported, for example, by originally filed claims 7 to 9. Claims 109 to 111 are supported, for example, by originally filed claims 15, 16 and 20, and at page 5, lines 8-21. Claim 112 is supported, for example, by originally filed claim 21. Claims 113 to 116 are supported, for example, at page 66, line 25, to page 67, line 19; and at page 68, lines 9-27. Thus, as claims 98 to 116 are supported throughout the originally filed specification no new matter has been added and entry thereof is respectfully requested.

Regarding the Priority Document

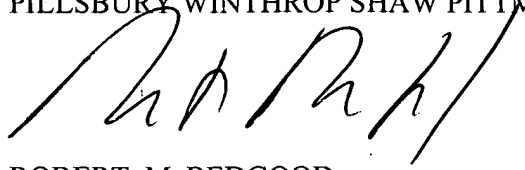
Submitted herewith is a certified copy of EP priority application 03026161.4, filed November 14, 2003. Applicants note that the priority EP application is in English, not German, as stated in the Office Action.

CONCLUSION

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

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I hereby certify that, on the date shown below, this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: May 30, 2008



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